

REMARKS

The present is in response to the Office Action dated February 26, 2004. In view of the foregoing amendments and the following comments, favorable reconsideration is respectfully requested.

In the Office Action, the Examiner has first indicated the withdrawal of claims 20-26 pursuant to the recent election of species requirement. An action on the merits of claims 1-19 and 27-30 has accordingly been given.

The Examiner has noted a pair of informalities in the specification and the Abstract of a minor nature. As a path of least resistance, the specification and Abstract have been slightly amended in order to ensure full compliance with the applicable rules.

In paragraph 6 of the Office Action, claims 1-19 and 27-30 have been rejected under §112, second paragraph, as being indefinite or indistinct. In response, the entire claim set has been revised editorially without any intended change in scope. In general, the claims have been clarified in a manner which is believed will be to the Examiner's satisfaction. However, for purposes of completeness, Applicants wish to address a few of the individual claims objected to by the Examiner.

With respect to claim 4, Applicants do not see how an issue of indefiniteness or in clarity is introduced by referring to the evaporative cooling element as an evaporative "medium". It is noted that the latter expression is the usual term of art used in the evaporative cooling area. Similar comments are in order with respect to claim 28.

With respect to claim 9, this claim has been amended, however the Examiner's objection to this claim is not clear. This claim merely specifies the range of heat output in BTU. It is believed that the claim does so in perfectly acceptable language.

Finally, with respect to claim 14, the claim is not intended to be in method form. However, given that there is no reasonable way of expressing the interchangeability aspect of the invention without using active verbs, it is submitted that this claim expresses that aspect with as much clarity and precision as possible.

Turning now to the prior art issues, the Examiner has indicated the allowability of claims 14-16 and 28, subject to the removal of the §112 rejection. It is believed that these claims are now in allowable condition.

Claims 1-8, 10, 12, 13, 17, 18, 27, 29 and 30 have been rejected under §102 as being anticipated by Talbert. In an alternative rejection, claims 1 and 27 have been further rejected, and claim 11 has been initially rejected, under §102 as being anticipated by Tippmann. The Examiner did not originally apply the prior art against claims 9 or 19 owing to alleged indefiniteness in these claims. It is believed that the source of such indefiniteness, if any, has now been removed.

Turning to the prior art, it appears that the Talbert relates to a conventional heat pump system which therefore contains subsystems which are usable in one or both of a heating and cooling mode. The present invention, however, does not relate to this area of endeavor. The invention is related to a system which is capable of alternatively being used as a heater or as an evaporative cooler. Claim 1 of the application has been amended to further this distinction. As

the Examiner will understand, evaporative cooling is an art wholly distinct from that of conventional air conditioning as represented by Talbert. Accordingly, the teachings of Talbert are not considered as being particularly relevant. Moreover, it is not seen where Talbert discloses first and second interchangeable attachment units for heating and cooling, respectively, and therefore, the relevance of Talbert is suspect in any event.

The Tippmann reference apparently relates to a container which is capable of heating and/or cooling trays of food and is intended for use in, e.g., a bakery or a restaurant. Clearly, this reference has no relevance to the evaporative cooling art. Further, as in Talbert, Tippmann does not disclose interchangeable first and second attachment units for heating and cooling, respectively.

Accordingly, in the absence of more relevant prior art, Applicants respectfully submit that the claims as amended herein stand in currently allowable condition.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Supplemental Amendment Under 37 C.F.R. § 1.111
USAN 10/042,361

A7183

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard C. Turner', written over a horizontal line.

Richard C. Turner
Registration No. 29,710

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 7, 2005